IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1648 of 2003

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MOTILAL M CHAVDA

Versus

GOVINDBHAI DUNGARBHAI PARMAR

Appearance:

MR MK VAKHARIA for Petitioner

MR KR KOSHTI for Respondent

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 17/03/2003

ORAL JUDGEMENT

1. Rule. Mr. K.R. Koshti, learned advocate appearing for the respondent workman waives service of rule.

2. The present Special Civil Application is filed challenging the order passed in Misc. Application No.1/1996 dated 9th March 2000 whereby the Labour Court

rejected the application and refused to quash and set aside the exparte award passed by the Labour Court in Reference LCS No.238/90 dated 29.3.1995.

3. Though the present petition is filed late, the question remains that if the award was exparte, there was no reason for the Labour Court to reject the said application and should have given an opportunity to the present petitioner i.e. the applicant of Misc. Application No.1/1996 by awarding some costs to the workman. From the discussion in paragraph 3 of the order passed in Misc. Application, it appears that the Court was offended on account of the petitioner not remaining present and therefore without taking into consideration even the contents of the written submissions filed before the Court, an exparte award was passed and the Misc. Application was also dismissed.

4. In view of the above facts and circumstances, it is deemed fit to quash and set aside the impugned orders and to remand the matter for a fresh decision after hearing the parties. Accordingly the present petition is allowed. The impugned order passed in Misc. Application No.1/96 dated 9.3.2000 as also the judgement and award passed in Reference LCS No.238/90 dated 29.3.1995 are hereby quashed and set aside. The matter is remanded to the Labour Court, Surendranagar, with a direction that the Labour Court shall give priority to this matter and decide afresh after hearing both the parties, within six months from the date of receipt of this order. The amount deposited before this Court be transmitted to the Labour Court, Surendranagar, who shall invest the same in a Fixed Deposit with a nationalised bank for a period of one year. The amount will be disbursed as per the final order passed by the Labour Court, Surendranagar.

5. The present petitioner shall pay a sum of Rs.5000/- (Rupees five thousand only) to the respondent workman towards the cost. Rule is made absolute.

[RAVI R. TRIPATHI J.]

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